

states.

69.(New) The material as claimed in claim 46 in which M is partially or fully substituted by a magnetic transition metal ion so as to display magnetically ordered states.

70.(New) The material as claimed in claim 16 wherein the aromatic diammonium cation has a string of one or more aromatic moieties of phenylene.

71.(New) The material as claimed in claim 28 wherein the aromatic diammonium cation has a string of one or more aromatic moieties of phenylene.

REMARKS

The Applicant respectfully requests that the Examiner reconsider the present application in the light of the foregoing amendments and the following remarks.

The Claims

New independent Claim 53 is being added. Claim 53 is generic to the materials set forth in Claims 1 and 38. No prior art reference was cited against Claim 1 in the Official Action mailed on August 18, 2003. Therefore, Applicant would like to have the subject matter of Claim 53 examined because it appears that he is entitled to a broader scope of protection than afforded by Claim 1 as originally presented.

New Claims 54-71 are also being added. Support for new Claim 54 is found at page 4, line 15, and page 9, lines 10-20. Support for new Claims 55-59 and 62-69 is

found at page 4, lines 24-25, and page 8, lines 7-14. Support for new Claims 60 and 61 is found at page 4, lines 26-31, and original Claim 37. Support for new Claims 70 and 71 is found at page 16, lines 25-29.

No new matter is added by any of the new claims.

In the Official Action, the Examiner objected to the form of the dependent claims because they began with the indefinite article "A" or "An". Although the Examiner cited no authority for the objection, the Applicant has amended the dependent claims to correct the alleged grammatical errors. It is noted that the amendments changing the indefinite articles to the definite article are not intended to change the scope of the claims, but only to correct the alleged grammatical errors.

Restriction/Election

In the response to the Official Action mailed on May 6, 2003, the Applicant elected to restrict the present application to the subject matter of Claims 1-37. As noted above, new Claim 53 is generic to Claims 1 and 38. Therefore, Claims 1 and 38 are directed to different species or sub-genuses of the subject matter of Claim 53. Claim 38 has been amended to be dependent from new Claim 53. Claims 39-47 and 62-69 are also dependent from Claim 53 by virtue of their dependency from Claim 38, either directly or indirectly. Under the provisions of 37 CFR 1.141, an Applicant may have "claims directed to a reasonable number of species" in one application if the claims directed to the species are presented in dependent form or otherwise include all of the features of the generic claim. If the subject matter of Claim 53 is determined to be patentable, then Applicant requests that Claims 38-47 be rejoined.

Claim 48 as originally presented was directed to a method of making a layered organic-inorganic oxide material. In the restriction requirement the Examiner concluded that the claimed method was related to the subject matter of Claims 1 and 38, the former being directed to a process of making and the latter being a product made by the process. However, the Examiner concluded that the claimed method was patentably distinct and therefore had to be restricted.

MPEP 821.04 (Rejection under) reads as follows, in pertinent part.

Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. 121 to elect claims to either the product or process. See MPEP §§ 806.05(f) and §§ 806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 CFR 1.142. See MPEP §§ 809.02(c) and §§ 821 through §§ 821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Claim 48 has been amended to be dependent from new Claim 53. Claims 49-52 are also dependent from Claim 53 by virtue of their dependency from Claim 48, either directly or indirectly. If the product set forth in Claim 53 is determined to be patentable, then Applicant requests that Claims 48-52 directed to the method of making that product be rejoined pursuant to MPEP 821.04..

35 USC 112, First Paragraph: Claims 9, 18, and 33

The Examiner rejected Claim 9 under 35 USC 112, first paragraph. In making the rejection the Examiner alleged that the claim failed to comply with the written description requirement with respect to the use of the term “organic oxide” or “organic oxide with a corner-shared octahedra configuration”. Claim 9 has been amended to change the term “organic oxide” to “inorganic oxide” which is supported by the written

description.

The Examiner rejected Claims 18 and 33 under 35 USC 112, first paragraph. In making the rejection the Examiner pointed out that in Claim 18 the values for the subscripts “m” and “n” are not defined. With respect to Claim 33, the Examiner explained that the terms “replacing ammonium [*sic*] groups”, “field-effect injected electrons”, and “field-effect injection electron holes” did have any enabling description in the specification.

Claim 18 has been amended to include new subscripts “p” and “q” to distinguish them from the subscripts used for the inorganic oxides and values of “p” and “q” are now set forth in the claim. Accordingly, it is believed that the rejection has been overcome as to Claim 18.

Claim 33 has been amended in response to a rejection under 35 USC 112, second paragraph, discussed below. The amendment makes clear that “replacing ammonium groups” is not a separate category of dopants. Rather it refers to the alkali cation and the methyl ammonium cation which are used as dopants. Applicant submits that the terms “field-effect injected electrons” and “field-effect injected electron holes” would be readily understood by a person skilled in the art. Nevertheless, the Examiner’s attention is directed to the Specification at page 9, lines 17-20, which contains a description of the field-effect injection phenomenon referred to in Claim 33. For all these reasons, it is believed that the rejection of Claim 33 is overcome.

35 USC 112, Second Paragraph: Claims 1-37

The Examiner rejected Claims 1-37 under 35 USC 112, second paragraph. In

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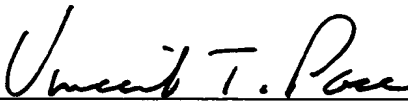
making the rejection the Examiner alleged that Claims 1, 3, 9, 18, 19, 20, 29, 30, 33, 37, and any claims that depend from those claims are so indefinite that they fail to meet the requirement of 35 USC 112, second paragraph, to particularly point out and distinctly claim the subject matter that the Applicant considers to be the invention.

Claims 1, 3, 9, 18, 19, 20, 29, 30, 33, and 37 have been amended to remove any indefiniteness that may have existed. Accordingly, it is believed that the rejection under 35 USC 112, second paragraph, has been overcome.

CONCLUSION

In view of the foregoing amendments and remarks it is believed that the claims in this application are in condition for allowance. Should new Claim 53 be allowed, it is believed that Claims 38 and 48, and their related dependent claims, should be rejoined. The Applicant respectfully requests that the Examiner reconsider the application.

Respectfully submitted,
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